

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 8-30-04.

The CPT code 99080-73 TWCC reports on 10-08-03 and 11-21-03 were paid by the Carrier.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the office visits, ultrasound, massage, therapeutic exercise, manual therapy and knee orthosis elastic from 10-01-03 through 11-24-03 were not medically necessary.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were the only fees involved in the medical dispute to be resolved. As the services listed above were not found to be medically necessary, reimbursement for dates of service 10-01-03 through 11-24-03 are denied and the Medical Review Division declines to issue an Order in this dispute.

This Finding and Decision is hereby issued this 5<sup>th</sup> day of January 2005.

Donna Auby  
Medical Dispute Resolution Officer  
Medical Review Division

DA/da

Enclosure: IRO decision

**IRO Medical Dispute Resolution M5 Retrospective Medical Necessity  
IRO Decision Notification Letter**

Date:	December 20, 2004
Injured Employee:	
MDR #:	M5-05-0049-01
TWCC #:	
MCMC Certification #:	5294

Requested Services: office visits, 97035-ultrasound, 97124-massage, 97110-therapeutic exercise, 97140-manual therapy, L1815-NU-Knee orthosis elastic. Denied by carrier for medical necessity with "V" codes.

MCMC llc (MCMC) is an Independent Review Organization (IRO) that was selected by The Texas Workers' Compensation Commission to render a recommendation regarding the medical necessity of the above Requested Service.

Please be advised that a MCMC Physician Advisor has determined that your request for M5 Retrospective Medical Dispute Resolution on 12/20/2004 concerning the medical necessity of the above references requested service hereby find the following:

The medical necessity regarding office visits, 97035-ultrasound, 97124-massage, 97110-therapeutic exercise, 97140-manual therapy, L1815-NU-Knee orthosis elastic is not established within the documentation. This reviewer is in agreement with the previous denial

- \*5 pgs Medical Dispute Resolution Request dated 09/07/2004
- \*Explanation of benefits dated, 11/03/2003, 10/31/2003, 11/12/2003, 11/17/2003, 11/10/2003, 11/14/2003, 21/03/03, 12/10/2003, 12/15/2003, 12/18/2003
- \*2 pgs IRO summary dated 09/28/2004
- \*15 pgs CONSILIUMMD reports
- \*1 pg Employers first report of injury
- \*Occupational Injury Report dated 08/21/2003
- \*TWCC Work Status Report dated 08/21/2003, 09/05/2003, 09/19/2003, 09/25/2003, 09/26/2003, 10/08/2003, 10/24/2003, 11/21/2003, 12/04/2003, 12/04/2003
- \*Worker Compensation Initial Report dated 08/22/2003
- \*MRI Right Knee report dated 08/28/2003
- \*Harris Methodist ER Nursing Record dated 09/03/2003
- \*Garrett Consulting Diagnostic Imaging Interpretation dated 09/05/2003
- \*Physical Performance Evaluation dated 09/17/2003, 10/20/2003, 11/26/2003, 07/12/2004
- \*Texas Injury Clinic RE-Examination dated 09/22/2003, 11/03/2003
- \*Linden Dillin report dated 09/25/2003, 10/30/2004, 12/04/2003, 01/15/2004
- \*DME Certificate dated 09/02/2003, 09/17/2003
- \*4 pgs Knee II Rehab protocol documentation
- \*Impairment Rating dated 01/16/2004
- \*Report of Medical Evaluation dated 01/16/2004
- \*Letter of Medical Necessity dated 04/12/2004
- \*39 pgs Progress Notes/Daily Notes

In regards to the knee brace, the documentation, though not specific, reflects that the knee brace is a hinged type knee brace, typically utilized when mediolateral instability of the knee is present. The documentation does not indicate that there was any demonstrable instability of the knee at any point in time whatsoever in reviewing documentation from the attending physician as well as consultative evaluators. As such, the medical necessity for the utilization for this type of knee brace is not established within the documentation.

In regards to the other billed entities, from a general global standpoint, this injured individual initiated care under the administration of the attending physician on 08/21/2003. Approximately six weeks of care and rehabilitation was attended from 08/21/2003 to 10/01/2003, the point at which these entities were denied. For the degree, nature and severity of this particular injury, six weeks of active and passive rehab should serve as a more than adequate course of care for this injured individual to regain normal function and resume some level of pre-injury status based on clinical

expectations of recovery of the injuries depicted in the documentation. It could not be reasonably expected that more than six weeks of aggressive active and passive therapy would be necessary given the fact that this injured individual sustained a minimal Grade I sprain of the right knee with no instability and no other demonstrable or documented complicating factors. Furthermore, the re-examination dated 09/22/2003 revealed that the injured individuals ranges of motion were basically normal with some lingering minimal muscular weakness. The consultative referral at that time also opined that there was no demonstrable pathologies or instability that would preclude a return to work and initiation of a home-based exercise program. Given the fact that this injured individuals ranges of motion improved dramatically from the initial findings to 09/22/2003, there were insufficient lingering objective deficits to warrant the aggressive course of care prescribed from 10/01/2003 and forward. As many as six or seven units of therapeutic exercises were employed to treat one single body part with a minimal sprain/strain injury element. The degree, frequency and duration of treatment does not match favorably with the degree of injury or stated diagnosis.

From an individual standpoint, in regards to ultrasound and other passive modalities, the time for the application of passive modalities for a Grade I sprain had long since passed as stated above. The documentation indicates no ongoing rationale for the continuation of these passive modalities.

In regards to manual therapy-97140 and massage-97124, these particular billable entities require that a time component be satisfied within the documentation. A review of the documentation reveals no associated time component in regards to these therapies. Furthermore, as stated above, the degree, duration, frequency, and nature of the treatment does not match well with the minimal injuries and lack of complicating factors documented as part of the injured individuals injury.

In light of the arguments raised above, and given the fact of the minimal injuries sustained by the individual and the minimal objective deficits seen in the re-examination of 09/22/2003, care from 10/01/2003 and beyond is not certified as medically necessary. This reviewer is in agreement with the previous denial.

The provider, in an appeal letter, stated that the rationale for continuing care was established through Texas Labor Codes because, the employee is entitled to all health care that cures or relieves the effects, promotes recovery, enhances return to employment. While the statement is accurate, there are other important criteria and considerations to make while assessing the efficacy and appropriateness of continuing care. First of all, the treatment route chosen should be the most efficacious and best in regards to cost effectiveness. It is not clear from a review of the documentation why such an aggressive course of treatment was chosen when other options such as home based therapy programs and modified return to work could have been entertained.

Also, the documentation must provide more than just treatment information for the convenience of the provider. Standards of recordkeeping require that the documentation serve as a source of substantiation for the medical necessity of care, especially when the care appears to be outside the clinical expectations for a particular condition in regards to duration, frequency and degree.

The provider also contended that a peer review doctor, sitting at a desk, having never physically examined the injured individual, making recommendations regarding the injured individual's care is an injustice. While it is true that an independent hands on examination likely carries more presumptive weight, paper review of cases is a well established practice and necessary for the financially responsible entity to make assessments as to medical necessity. In this case, the documentation needs to clearly demonstrate the rationale for the medical necessity of care for the benefit of any outside reviewing entity, paper or physical, making recommendations as to the appropriateness of care. The reviewing entity assumes that the case is typical and would follow typical treatment algorithmic progress unless otherwise established in the documentation. In this case, the documentation does not clearly provide the rationale for the aggressive, extensive and lengthy course of care for the treatment of a minimally uncomplicated sprain for an atypical length of time.

**REFERENCE:**

References utilized in this review include but are not limited to the North American Spine Society Guidelines, Guidelines for Chiropractic Quality Assurance and Practice Parameters: Practice Parameters from the proceedings of the Mercy Center Consensus Conference, Agency for Health Care Policy and Research (AHCPR), and Procedural Utilization Guidelines. It should be noted that the TWCC Spine Treatment Guidelines have been abolished and can not be utilized in regards to treatment criteria.

The reviewing provider is a Licensed Chiropractor and certifies that no known conflict of interest exists between the reviewing chiropractor and any of the treating providers or any providers who reviewed the case for determination prior to referral to the IRO. The reviewing physician is on TWCC's Approved Doctor List.

This decision by MCMC is deemed to be a Commission decision and order (133.308(p) (5).

**In accordance with commission rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent via facsimile to the office of TWCC on this**

**20<sup>th</sup> day of December 2004.**

**Signature of IRO Employee:** \_\_\_\_\_

**Printed Name of IRO Employee:** \_\_\_\_\_